



THE ATTORNEY GENERAL
OF TEXAS

Gerald C. Mann
~~JOHN BOOTHMAN~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. J. P. Bryan
County Attorney
Brazoria County
Angleton, Texas

Dear Sir:

Opinion No. O-359

Re: Whether constable fee of \$2.00
is allowed when arrest is made
by highway patrolman.

Your letter of February 7th addressed to Hon. Gerald C. Mann,
Attorney General of Texas, has been received by this Department.

Your question is raised by the following statement contained
in your letter:

"The State Highway Patrolmen have informed the
Justice of the Peace in Precinct No. 8 that in taxing
the costs in highway violation cases, where the arrests
were made by the Highway Patrolman, that he can add the
\$2.00 fee for an arrest and collect or give this to the
constable in his precinct. I understand in these in-
stances the constable was not working with the Highway
Patrolman at the time of the arrest."

We beg to advise that the identical question raised in your letter
was recently answered by this Department in Opinion O-106, written by Hon.
Claude O. Boothman, Assistant Attorney General, and addressed to Hon. Thos.
A. Wheat, County Attorney, Liberty County, Liberty, Texas, under date of
January 18, 1939, a copy of which opinion is herewith enclosed.

In response to the second paragraph of your letter, the authoriza-
tion of the State Highway Motor Patrol is found under authority granted to
the State Highway Department and provisions for such officers and their au-
thority to enforce the laws found in Article 827a, Section 16, Penal Code of
Texas, as amended by the Acts of 1931, 42nd Legislature, Chapter 164.

Very truly yours,

WnK;AW:egw
Enclosure
APPROVED - March 3, 1939
/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

ATTORNEY GENERAL OF TEXAS

By /s/ Wn. J. R. King
Wn. J. R. King
Assistant